

Agency for International Development

733.270-2

by the contracting officer that a bidder or offeror is or is not capable of performing a contract will not be reviewed by the Procurement Executive.

(i) *Small Business Certificate of Competency Program.* Any referral made to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by the Procurement Executive.

Subpart 733.27—A.I.D. Procedures for Disputes and Appeals

733.270-1 Designation of Armed Services Board of Contract Appeals (ASBCA) to hear and determine appeals under A.I.D. contracts.

(a) The ASBCA is hereby designated the authorized representative of the Administrator of the Agency for International Development (A.I.D.) in hearing, considering, and determining as fully and finally as might the Administrator, appeals by contractors from decisions on disputed questions taken pursuant to the provisions of contracts requiring the determination of such appeals by the Administrator or his/her duly authorized representative or Board.

(b) In acting under this designation, the ASBCA will follow such rules and procedures as are or may be prescribed for the conduct of Defense Department contract appeal cases, except for the rules entitled "Forwarding of Appeals" (Rule 3) and "Duties of the Contracting Officer" (Rule 4), which subjects will be governed by procedures to be promulgated by the General Counsel of A.I.D. with approval of the Chairman of the ASBCA.

(c) The General Counsel of A.I.D. will assure representation of the interests of the Government in proceedings before the ASBCA.

(d) All officers and employees of A.I.D. will cooperate with the ASBCA and Government counsel in the processing of appeals so as to assure their speedy and just determination.

[53 FR 4980, Feb. 19, 1988. Redesignated at 61 FR 39095, July 26, 1996; 61 FR 51235, Oct. 1, 1996]

EFFECTIVE DATE NOTE: At 61 FR 39095, July 26, 1996, section 733.7101 was redesignated as section 733.2701. At 61 FR 51235, Oct. 1, 1996, the redesignation was corrected to read section "733.270-1", effective Oct. 31, 1996.

733.270-2 Special procedures regarding contract disputes appeals promulgated pursuant to paragraph 2 of the Administrator's designation.

(a) The following rules will apply, in lieu of Rules 3 and 4(a) of the ASBCA, to contract dispute appeals to the Administrator of the A.I.D. or his/her authorized representative which are docketed with that Board.

(b) Rule 3 (A.I.D.)—Forwarding of Appeals. When a notice of appeal in any form has been received by the contracting officer, he/she shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board with a copy to the A.I.D. General Counsel in Washington, DC. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor, the contracting officer, and the A.I.D. General Counsel will be promptly advised of its receipt, and the contractor will be furnished a copy of these rules.

(c) Rule 4 (A.I.D.). Preparation, Contents, Organization, Forwarding, and Status of Appeal File (Supersedes Rule 4, "Duties of Contracting Officer" of the ASBCA rules in effect on April 1, 1980).

(d) Duties of Contracting Officer. Within 30 days of receipt of an appeal or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the A.I.D. General Counsel in Washington, DC, two copies of all documents pertinent to the appeal, including:

(1) The decision and findings of fact from which appeal is taken;

(2) The contract, including specifications and pertinent amendments, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) All transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any